

Bridge, Structural and Reinforcing Iron Workers Local No. 1 of the International Association of Bridge, Structural and Ornamental Iron Workers, AFL-CIO and Fabcon, Incorporated and ATMI Precast, Inc. and Nationwide Erectors, Inc. Cases 13-CD-459, 13-CD-465, 13-CD-464, 13-CD-466, 13-CD-467, and 13-CD-468

May 19, 1993

DECISION AND DETERMINATION OF DISPUTE

BY CHAIRMAN STEPHENS AND MEMBERS
DEVANEY AND OVIATT

This is a consolidated proceeding under Section 10(k) of the National Labor Relations Act, as amended, following the filing of charges in Case 13-CD-459 on April 27, 1992,¹ and in Case 13-CD-465 on June 4, by Fabcon, Incorporated (Fabcon);² the filing of charges in Case 13-CD-464 on May 19, and in Cases 13-CD-466 and 13-CD-467 on June 11, by ATMI Precast, Inc. (ATMI); and the filing of a charge in Case 13-CD-468 on June 25 by Nationwide Erectors, Inc. (Nationwide). It is alleged in Cases 13-CD-459 and 13-CD-465 that Bridge, Structural and Reinforcing Iron Workers Local No. 1 of the International Association of Bridge, Structural and Ornamental Iron Workers, AFL-CIO (Iron Workers) violated Section 8(b)(4)(D) of the Act by engaging in certain proscribed activity with an object of forcing or requiring Fabcon to assign certain work to employees represented by Iron Workers rather than to employees represented by International Union of Bricklayers and Allied Craftsmen, AFL-CIO (Bricklayers) and employees represented by Laborers District Council of Chicago (Laborers District Council) and Laborers' International Union of North America and Canada, AFL-CIO (Laborers International) (together referred to as Laborers). In Cases 13-CD-464, 13-CD-466, 13-CD-467, and 13-CD-468, it is alleged that Iron Workers violated Section 8(b)(4)(D) of the Act by engaging in certain proscribed activity with an object of forcing or requiring the respective Employers therein to assign certain work to employees represented by Iron Workers rather than to employees represented by Bricklayers.³

Pursuant to notice, a hearing was held at Chicago, Illinois, on June 16 and 17 in Cases 13-CD-459, 13-

CD-464, 13-CD-465, 13-CD-466, and 13-CD-467 before Hearing Officer Sheryl Sternberg.⁴ Fabcon, ATMI, Iron Workers, Bricklayers, and Laborers appeared at the hearing and were afforded full opportunity to be heard, to examine and to cross-examine witnesses, and to adduce evidence bearing on the issues. Subsequent to the hearing and before a Board decision in Cases 13-CD-459, 13-CD-464, 13-CD-465, 13-CD-466, and 13-CD-467, the charge in Case 13-CD-468 was filed. The charge alleged violations similar to those alleged in the cases previously heard. Thereafter, Iron Workers filed a motion to consolidate, stating that it was Iron Workers' intention to submit essentially the same evidence as was submitted in the prior hearing and to supplement that evidence with respect to the facts and circumstances raised in the subsequent charge. Iron Workers therefore urged the Board to consolidate the cases, allowing all parties to make any objections deemed appropriate regarding the evidence submitted in the prior hearing and to supplement the record as they saw fit. On July 15, the Board granted Iron Workers' motion and remanded the proceeding to the Regional Director for further appropriate action.

Thereafter, pursuant to notice a further hearing was held in Chicago, Illinois, on July 16, before Hearing Officer Karin V. Gearhard. Nationwide, Iron Workers, ATMI, and Bricklayers were present and were afforded full opportunity to be heard, to examine and cross-examine witnesses if they desired, and to adduce evidence bearing on the issues consistent with the Board's Order. After the hearing, Fabcon, ATMI, Nationwide, Iron Workers, and Bricklayers filed briefs, and Laborers District Council filed an adoption of Fabcon and Bricklayers' briefs.

The National Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board affirms the hearing officers' rulings, finding them free from prejudicial error.⁵ On the entire record, the Board makes the following findings.

⁴ Although the order further consolidating cases and notice of consolidated hearing, which consolidated Cases 13-CD-466 and 13-CD-467 with Cases 13-CD-459, 13-CD-464, and 13-CD-465, was issued on June 15, all parties agreed to waive the 10-day notice of hearing requirement for 10(k) proceedings.

⁵ In its brief, Bricklayers objects to Hearing Officer Sternberg's ruling accepting certain exhibits offered by the Iron Workers, consisting of letters from various contractors indicating their use of employees represented by Iron Workers for precast work. We affirm the ruling of the hearing officer, and have given the exhibits due consideration. Iron Workers objects to Hearing Officer Sternberg's rejection, on hearsay grounds, of its offer of proof that crane operators have expressed a preference that employees represented by Iron Workers give them hand signals directing their hoisting and placement of precast panels. We accept the rejected offer of proof.

¹ All dates are 1992 unless otherwise indicated.

² An amended charge in Case 13-CD-459 was filed on May 11 containing the same allegations. Fabcon requested withdrawal of the charge in that case prior to hearing, but on June 5 Fabcon requested a revocation of its withdrawal request and the case was scheduled for hearing.

³ Although the charge filed by Nationwide indicates that the work in dispute is assigned to employees represented by Bricklayers, the record and Nationwide's brief show that the work is in fact assigned to composite crews of bricklayers and laborers.

I. JURISDICTION

The parties to the first hearing, pertaining to the charges filed by Fabcon and ATMI, stipulated that ATMI is an Illinois corporation engaged in the business of manufacturing, selling, and installing precast concrete, and that within the year preceding the hearing, a representative period, ATMI received at its Aurora, Illinois facilities goods and materials valued in excess of \$50,000 directly from points outside the State of Illinois. The record shows that Fabcon, a corporation with an office in Chicago, Illinois, is engaged in the business of designing, manufacturing, erecting, and installing precast concrete wall and floor plank panels. The parties also stipulated that Fabcon, during the 12 months preceding the hearing, a representative period, purchased and received at its Illinois facilities goods and materials valued in excess of \$50,000, which goods and materials originated outside the State of Illinois.

The parties to the hearing pertaining to the charge filed by Nationwide stipulated that Nationwide, an Illinois corporation, is engaged in the business of erection and installation of precast concrete, and that during the 12 months preceding the hearing, a representative period, Nationwide, in the course and conduct of its business operation, purchased and received goods and services valued in excess of \$50,000 directly from entities located outside the State of Illinois. We find that ATMI, Fabcon, and Nationwide are employers engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

All parties stipulated, and we find, that Iron Workers, Bricklayers, Laborers District Council, and Laborers International are labor organizations within the meaning of Section 2(5) of the Act.

II. THE DISPUTE

A. *Background and Facts of Dispute*

1. Cases 13-CD-459 and 13-CD-465

Since its inception in 1970, Fabcon has employed employees represented by Bricklayers and Laborers to perform its erection and installation work. Fabcon is a party to a collective-bargaining agreement with Bricklayers and Laborers International, as well as to collective-bargaining agreements with the Minnesota locals of those unions. Fabcon employs approximately 40 "key employees," composing 10 work crews, who perform this work throughout a 12-state area. Two crews, consisting of eight key employees, are from the Chicago area, although Fabcon also assigns Minnesota-area employees and hires additional Chicago workers to work on jobs in the Chicago area. Typically,

Fabcon's crews consist of two bricklayers, one of whom is designated as foreman, and two laborers.⁶

Iron Workers first contacted Fabcon's president, Walz, concerning the use of ironworkers on its crews in August 1991, prior to the events giving rise to the instant charges. In a telephone conversation, Iron Workers President Keegan asked if Fabcon was going to employ ironworkers on a particular project, and when Walz responded that no ironworkers would be assigned to perform the work, Keegan stated that there might be a banner at the job site. No picketing, however, occurred at that jobsite.

Keegan sent letters dated April 20 and 27 to Walz concerning the disputed work on the Bedford Park, Illinois project. In these letters, Keegan noted Fabcon's practice of assigning the disputed work to bricklayers and laborers and claimed the work for employees represented by Iron Workers. In the April 20 and 27 letters, respectively, Keegan threatened "to take action" and "to picket" when the work commenced if Fabcon did not assign the work to ironworkers. Iron Workers did not picket the project.

On June 3 Keegan sent a letter to Walz requesting information regarding the wage scales that Fabcon would pay to employees performing the disputed work on the Franklin Park project. Keegan asserted that the wages would be below the prevailing area standard for ironworkers, and stated that unless Fabcon conformed to the area standards wages, Iron Workers would conduct area standards picketing at the jobsite. On June 4 Iron Workers picketed at the Franklin Park jobsite, wearing vests stating that Fabcon was using labor receiving less than the prevailing ironworkers rates. As a result of the picketing, the bricklayers and laborers employed by Fabcon did not work and its trucks were not unloaded. Ironworkers and operating engineers at the jobsite also refused to work.

2. Cases 13-CD-464, 13-CD-466, and 13-CD-467

ATMI, which had been in business as a precast subcontractor for approximately 3 years at the time of the hearing, employs employees represented by Bricklayers in crews of four or five members. ATMI is a signatory to an International Panelization Agreement with Bricklayers. On May 14 Iron Workers Business Agent Trzaskowski telephoned ATMI President Armbruster and inquired whether ATMI would have any ironworkers on its Deerfield project crew. Armbruster replied that ATMI had a collective-bargaining agreement with Bricklayers. By letter dated May 18, Keegan requested that ATMI provide information concerning the wages to be paid to employees performing the disputed

⁶The record indicates that Fabcon pays its employees wages and fringe benefits in accordance with the standards of their respective "home" locals.

work on a commercial office building project at Deerfield, Illinois, and stated that if the wages for the project did not conform to the area standard for Iron Workers, there would be area standards picketing at the jobsite. On May 19, Iron Workers engaged in picketing at the Deerfield jobsite, with vests stating that ATMI did not pay the area standard for ironworkers. Armbruster sent the ATMI crew as well as the crane operator home, and sent the loaded trucks back to the plant.

On June 8, Keegan sent Armbruster a letter regarding ATMI's warehouse and commercial project at Lake Bluff, Illinois. In that letter, Keegan asserted that ATMI assigned work within Iron Workers' jurisdiction to other trades, and insisted that the disputed work be assigned to ironworkers. Keegan threatened to picket the Lake Bluff job if the work was not assigned as he requested. In another letter dated June 8, Keegan also demanded wage information regarding the disputed work at the Lake Bluff project, and threatened area standards picketing if ATMI did not meet the prevailing ironworker wage on that project.

On June 9, Keegan sent Armbruster an essentially identical letter requesting wage information and threatening area standards picketing with respect to ATMI's project at Buffalo Grove, Illinois. Iron Workers picketed the jobsite on June 12, again with vests bearing the same area standards message. Armbruster sent the ATMI crews home and directed that the six truckloads of precast be returned to the plant.

3. Case 13-CD-468

Nationwide generally uses a five-member crew for the installation of precast, one member of which is a crane operator whose work is not in dispute. The other four crew members include at least two and as many as four bricklayers, with any remainder of the crew composed of laborers. On June 24, Keegan sent a letter to Nationwide President Maze, similar to those sent to the other Employers, demanding wage information pertaining to the disputed work on the La Salle Street Station project in Chicago, Illinois, and threatening to engage in area standards picketing at that jobsite if the prevailing wage for ironworkers was not met on the project. On June 25, picketing was conducted by Iron Workers, again wearing vests containing area standards language, and the job was shut down. At the request of the general contractor for the project, Nationwide did not work at the jobsite that day. Maze also testified that he believed that no one else worked on the project that day. According to Maze, Nationwide crews next reported to the jobsite on July 3. Although there was no picketing on that date, the employees of the steel erector on the project, who were represented by Iron Workers, left the jobsite. Nationwide has not returned

to the project, even though 90 percent of its work remains to be done.

B. *Work in Dispute*

The work in dispute in Cases 13-CD-459 and 13-CD-465 involves the unloading, hoisting, and installation of precast or prestressed wall slabs by bricklayers and laborers employed by Fabcon at its construction sites located at 72d Street and Cicero Avenue, Bedford Park, Illinois, and at 9501 Nevada, Franklin Park, Illinois, respectively.

The work in dispute in Cases 13-CD-464, 13-CD-466, and 13-CD-467 involves the unloading, hoisting, and installation of precast or prestressed wall slabs by bricklayers employed by ATMI at the construction sites located at Lake Cook Road and I-294, Deerfield, Illinois; 105 Albrecht Drive, Lake Bluff, Illinois; and 800 Corporate Grove Drive, Buffalo Grove, Illinois, respectively.

The work in dispute in Case 13-CD-468 involves the unloading, hoisting, and installation of precast or prestressed wall slabs at the LaSalle Street project construction site located at LaSalle Street and Congress Street, Chicago, Illinois.

C. *Contentions of the Parties*

The Employers all contend that there is reasonable cause to believe that in each case Iron Workers violated Section 8(b)(4)(D) of the Act and therefore the Board must make a determination of the merits of the dispute. Fabcon contends that the factors of collective-bargaining agreements, employer preference and past practice, relative skills, economy and efficiency of operations, and Board precedent favor an award of the disputed work to its employees represented by Bricklayers and Laborers. ATMI contends that the disputed work should be awarded to its employees represented by Bricklayers based on collective-bargaining agreements, employer preference and past practice, area and industry practice, relative skills, and economy and efficiency of operations. Nationwide contends that the factors of collective-bargaining agreements, employer preference and past practice, area and industry practice, relative skills, and economy and efficiency of operations warrant an award of the disputed work to its employees represented by Bricklayers and Laborers.

Iron Workers concedes that the dispute is properly before the Board, and does not contend that there is no reasonable cause to believe that it violated Section 8(b)(4)(D). Iron Workers contends that the disputed work should be awarded to composite crews of employees represented by Bricklayers and Iron Workers based on the factors of area and industry practice, rel-

ative skills, interunion agreements, and joint board determinations.⁷

Bricklayers contends that there is reasonable cause to believe that Iron Workers violated Section 8(b)(4)(D), and that the factors of collective-bargaining agreements, employer preference and past practice, relative skills, economy and efficiency of operations, and Board precedent favor the award of the disputed work to the employees of each Employer consistent with their current assignment practices.

At the hearing regarding Cases 13-CD-459, 13-CD-464, 13-CD-465, 13-CD-466, and 13-CD-467, Fabcon, ATMI, Iron Workers, Bricklayers, and Laborers stipulated that the Board should make an areawide award of the disputed work coinciding with the territorial jurisdiction of Iron Workers. Nationwide and Bricklayers also urge the Board to make an areawide award in Case 13-CD-468. Iron Workers contends that the award in that case should be limited to the LaSalle Street Station project.

D. Applicability of the Statute

Before the Board may proceed with a determination of the dispute pursuant to Section 10(k) of the Act, it must be satisfied that there is reasonable cause to believe Section 8(b)(4)(D) of the Act has been violated.

In Case 13-CD-468, Iron Workers threatened to picket the jobsite if Nationwide did not pay the area standards wage for ironworkers, and on June 25 did picket the project. Although the vests worn by the pickets bore a message pertaining to area standards, Iron Workers stipulated at the hearing that the picketing was in support of its claim to the work.

In Case 13-CD-459, pertaining to Fabcon, and Case 13-CD-466, pertaining to ATMI, the facts show that Iron Workers claimed the disputed work and threatened to picket the jobsites if the work were not assigned to employees represented by Iron Workers. In Case 13-CD-465 (Fabcon), and Cases 13-CD-464 and 13-CD-467 (ATMI), the facts show that Iron Workers demanded wage information and threatened that if Fabcon and ATMI did not conform to the Iron Workers' area standard for wages on the projects, Iron Workers would engage in area standards picketing at the jobsites. In each of the three cases, Iron Workers did picket the project, wearing vests containing area standards language, and as a result the Employers' employees did not work and their trucks were not unloaded. Although Iron Workers' threats and picketing were ostensibly for the purpose of enforcing area standards, it does not assert that its activities were

solely for that purpose or dispute that there is reasonable cause to believe that Section 8(b)(4)(D) has been violated. Moreover, this record demonstrates that Iron Workers made other threats in support of claims for identical work from Fabcon and ATMI. Based on these circumstances, we find that the threats and picketing in Cases 13-CD-464, 13-CD-465, and 13-CD-467 also had an object of forcing the Employers to assign the work in dispute to employees represented by Iron Workers.

We conclude that there is reasonable cause to believe that a violation of Section 8(b)(4)(D) has occurred in each of the cases before us. The parties have stipulated that there exists no agreed method for voluntary adjustment of the disputes within the meaning of Section 10(k) of the Act. Accordingly, we find that the disputes are properly before the Board for determination.

E. Merits of the Disputes

Section 10(k) requires the Board to make an affirmative award of disputed work after considering various factors. *NLRB v. Electrical Workers IBEW Local 1212 (Columbia Broadcasting)*, 364 U.S. 573 (1961). The Board has held that its determination in a jurisdictional dispute is an act of judgment based on common sense and experience, reached by balancing the factors involved in a particular case. *Machinists Lodge 1743 (J. A. Jones Construction)*, 135 NLRB 1402 (1962).

The following factors are relevant in making the determination of the disputes.

1. Certifications and collective-bargaining agreements

Neither Iron Workers, Bricklayers, nor Laborers has been certified by the Board as the collective-bargaining representative of the employees performing the disputed work for any of the Employers. Accordingly, this factor is not helpful in determining the disputes.

Fabcon has a collective-bargaining agreement with both Bricklayers and Laborers International. Article II of that agreement provides that the agreement covers "the erection and installation of all precast, prestressed, prefabricated concrete building system components such as, but not limited to . . . wall panels," and that the work involves, but is not limited to, "unloading, hooking on, rigging, signaling, setting, placing, aligning, leveling, plumbing, grouting, bedding, installation of gaskets, shoring, reinforcing, sawing, cutting, drilling, caulking, welding, bolting, removal of temporary shores, grinding, cleaning, patching, and application of latex underlayment." In addition, Fabcon has collective-bargaining agreements with the Minnesota locals of Bricklayers and Laborers International, which govern the working conditions of 32 of its 40 key employees. Employees who perform

⁷We rely on Iron Workers' position at the hearing and in its brief in favor of composite crews, and find it unnecessary to pass on Fabcon and ATMI's assertions that at the time of the alleged violations of Sec. 8(b)(4)(D), Iron Workers contended that the disputed work should be awarded only to employees whom it represents.

the disputed work in the Chicago area are hired under the International agreement and receive wages and benefits under their local contracts. Fabcon does not have a collective-bargaining agreement with Iron Workers. Therefore, this factor favors an award to Fabcon's employees represented by Bricklayers and Laborers.

ATMI is signatory to an International Panelization Agreement with Bricklayers and to a Memorandum of Understanding with Illinois District Council No. 1 of Bricklayers. The International Panelization Agreement covers "the pre-assembly and complete installation of all exterior and interior artificial and natural masonry products of any size or dimension" The installation work includes such activities as unloading, hooking on, signaling, laying out, cutting, fitting, setting, and installing metal grid supports, including bolting or welding, grouting, patching, and caulking. ATMI has no collective-bargaining agreement with Iron Workers. This factor favors an award of the disputed work to ATMI's employees represented by Bricklayers.

Nationwide has since its formation had a series of collective-bargaining agreements with Bricklayers. Like ATMI, it is signatory to an International Panelization Agreement with Bricklayers, covering the same work noted above, as well as a Memorandum of Understanding with District Council No. 1 of Bricklayers. The record shows that from the mid-1980s until May 1991 Nationwide had a contract with Iron Workers. Maze testified that during that time Nationwide was tying wall panels in with bar joists, which he considered ironworker work. After finding that this procedure was not economical, Maze discontinued Nationwide's contractual relationship with Iron Workers. The record does not demonstrate that Nationwide has a collective-bargaining agreement with Laborers. Although this factor is therefore not helpful with respect to the assignment of the disputed work to employees represented by Laborers, it does favor an award to Nationwide's employees represented by Bricklayers.

2. Company preference and past practice

The record discloses that Fabcon has assigned the disputed work to composite crews of bricklayers and laborers since its inception in 1970, and Walz testified that he prefers to continue to assign the work in the same manner. Fabcon also points out that in previous cases involving it the Board has awarded essentially identical work to its employees represented by Bricklayers and Laborers rather than to employees represented by Iron Workers. See *Iron Workers Local 393 (Fabcon, Inc.)*, 255 NLRB 1324 (1981); *Iron Workers Local 563 (Fabcon, Inc.)*, 211 NLRB 736 (1974). These cases pertained to disputes over the erection and

installation of precast, prestressed concrete wall panels in Batavia, Illinois, and the Duluth, Minnesota area, respectively. This factor favors an award to Fabcon's employees represented by Bricklayers and Laborers.

Armbruster testified that he prefers to assign the disputed work to employees represented by Bricklayers. This preference is consistent with ATMI's practice during the 3 years it has been in business. Armbruster testified on cross-examination that on one project ATMI compensated another company for the services of an employee represented by Iron Workers. According to Armbruster, the employee was placed on the project after Iron Workers threatened to picket and the general contractor informed him that it could not allow the job to slow down. Iron Workers does not assert in its brief that this occasion diminishes ATMI's past practice of assigning the disputed work to bricklayers. We find that company preference and past practice support an award of the work to ATMI's employees represented by Bricklayers.

Maze testified that he prefers to use a composite crew of employees represented by Bricklayers and Laborers to perform the disputed work. During the year prior to this proceeding, Nationwide has assigned the work to such crews. During the period from the mid-1980s to May 1991, however, Nationwide employed ironworkers on its composite crews. Maze testified that during that time Nationwide used a technique that involved welding the panels to steel bar joists, which were in turn welded to the steel structure. Maze stated that when Nationwide discontinued that method of installation it terminated its contract with Iron Workers. Iron Workers asserts that the change resulted from its filing of a breach of contract lawsuit against Nationwide. In any event, the factor of employer past practice does not favor assignment of the disputed work to either group of employees. The factor of employer preference, however, favors the award of the work to employees represented by Bricklayers and Laborers.

3. Area and industry practice

ATMI and Fabcon presented evidence that employers in the Chicago area assign the disputed work to bricklayers or to composite crews of bricklayers and laborers. Fabcon has performed over 200 jobs in the Chicago area using its composite crews of bricklayers and laborers. Bricklayers District Manager Skopick also identified approximately 12 projects done in his district in the last few years by bricklayer or bricklayer/laborer crews. An employee represented by Bricklayers Local 21 testified that 80 to 90 percent of all the jobs he has done over an 18-year period, working for various contractors other than those involved in this proceeding, were performed exclusively by employees represented by Bricklayers. On the other hand, Iron Workers presented testimony by officials of four

contractors that perform precast erection projects, all of whom stated that they assign the work to employees represented by Iron Workers or composite crews of ironworkers and bricklayers. In addition, Iron Workers submitted into evidence numerous letters from other employers supporting its position that ironworkers are commonly assigned the disputed work in the Chicago area as well as in other States. We therefore find that area and industry practice does not favor an award of the disputed work to either group of employees.

4. Relative skills

Fabcon, ATMI, and Nationwide presented evidence that their employees are able to perform the work in dispute with a minimum of training. Walz testified that Fabcon's employees have all the skills, training, and experience required to perform the full range of tasks involved in precast installation, including reading drawings, doing layout work, unloading, hoisting, installing, welding, patching, and caulking. He also stated that Fabcon's employees' familiarity with the manufacture of the panels is beneficial. In addition, Walz testified that the employees are experienced in using levels, lasers, aerial lift platforms, cutoff saws, wall mounted saws, and a variety of handtools required for the work. The record also shows that Bricklayers provides a training program for welder certification and stone setting. Nationwide President Maze testified that the employees represented by Bricklayers were more skilled in precast installation because the precast panels are essentially "a finished masonry product." Armbruster testified that employees represented by Iron Workers do not perform certain aspects of the work, such as grouting.

Iron Workers concedes that some of the work involved in the erection of precast panels, such as caulking and grouting, is traditionally performed by bricklayers, although ironworkers receive training in these functions. Iron Workers also presented evidence that the employees it represents are highly skilled in other aspects of the work. In this regard, the record shows that Iron Workers conducts an extensive apprenticeship program, 5 months of which focuses on the skills needed for the erection of precast and prestressed panels. In addition, the evidence shows that ironworkers are required to obtain yearly certification in welding. Iron Workers also contends that safety considerations warrant the award of the work to the employees it represents. Specifically, it presented evidence that ironworkers use cables for hoisting the panels and inspect the cables daily, and that Fabcon's use of chains for this purpose involved a safety risk. Iron Workers also presented evidence that the employees it represents have more skill and training in giving hand signals to crane operators, and that crane operators have ex-

pressed a preference that ironworkers perform this function.

Walz testified that Fabcon's use of chains for hoisting panels is both safe and convenient, and Hanson testified that Fabcon had an excellent safety record. In addition, Fabcon and ATMI adduced evidence that their employees were skilled and experienced at giving hand signals to crane operators. Representatives of two other contractors testified that they at least occasionally assign bricklayers responsibility for giving hand signals. The record further includes a stipulation by Fabcon, ATMI, Iron Workers, and Bricklayers that the Bricklayers apprenticeship program provides training in welding and certification of welders. Armbruster testified that ATMI has a sufficient number of certified welders for its projects, and Walz stated that all but 8–10 of his 40 key employees are certified welders. Based on all of this evidence, we find that this factor does not favor or disfavor the Employers' current assignments of the disputed work.

5. Economy and efficiency of operations

The Employers presented evidence that their current assignments of the disputed work are more efficient than reassigning the work to employees represented by Iron Workers. Walz testified that Fabcon's employees represented by Bricklayers and Laborers are qualified to do all aspects of the work, so that there is little downtime on the job. He also stated that the employees can move easily from one project to another in the event, for example, of inclement weather or mechanical problems that impede their work. Hanson testified that Fabcon's employees are able to cut down panels in the field if they are too large as delivered from the Fabcon plant. Armbruster and Maze also testified that their employees perform all the tasks involved in the work. The record demonstrates, however, that ironworkers generally do not perform the grouting and caulking required for the installation of precast panels, and that when ironworkers work on such projects, the grouting and caulking is usually subcontracted. Iron Workers presented testimony by two contractors that there is no lack of efficiency when bricklayers and ironworkers are employed to work together on precast projects. Maze testified, however, that there have been morale problems on jobs where both bricklayers and ironworkers have been employed because of differences in work rules and wage rates. We find that the factor of economy and efficiency of operations favors an award of the work in dispute to the Employers' employees as currently assigned.

6. Prior jurisdictional dispute determinations

Iron Workers presented in support of its claim for the disputed work numerous decisions of various jurisdictional dispute boards awarding work to ironworkers

rather than to employees engaged in other trades. Several of these decisions, however, neither pertain to the type of work at issue here nor involve employees represented by Bricklayers, and most concern disputes far beyond the geographical area at issue in this proceeding. Moreover, none of the decisions involve these Employers. It is also significant that, with few exceptions, these documents do not reveal the basis for the determinations, but do explicitly state that the decisions are limited to the facts of the particular disputed job. Accordingly, we do not find that this evidence of prior jurisdictional dispute determinations favors an award of the disputed work to either group of employees.⁸

7. Interunion agreements

Iron Workers introduced as evidence several agreements, memoranda of understanding, and meeting minutes demonstrating agreement that ironworkers would be included in composite crews engaged in the erection and installation of precast concrete. Although some of these documents involved unions representing other trades, others, including agreements executed in August 1954 and December 1962, were signed by representatives of Bricklayers. These interunion agreements would favor award of the disputed work to a composite crew of employees represented by Bricklayers and Iron Workers. It is clear, however, that employers that have been threatened or picketed are necessary parties to disputes under Section 10(k). The record in this proceeding fails to demonstrate that any of the Employers here have agreed to be bound by these agreements. Moreover, as discussed above, the evidence does not establish that the area and industry practices in fact conform to the terms of the agreements. Under these circumstances, we find that we cannot give weight to these agreements in determining this dispute.⁹

Conclusions

After considering all the relevant factors, we conclude that the relevant factors favor the continuation of the Employers' assignments of the disputed work. As to Fabcon, we conclude that the employees represented by Bricklayers and Laborers are entitled to perform the disputed work based on collective-bargaining agreements, employer preference and past practice, and economy and efficiency of operations. As to ATMI, we award the disputed work to the employees rep-

resented by Bricklayers based on collective-bargaining agreements, employer preference and past practice, and economy and efficiency of operations. As to Nationwide, we conclude that the employees represented by Bricklayers and Laborers are entitled to perform the disputed work based on collective-bargaining agreements, employer preference, and economy and efficiency of operations.

In making these determinations, we are awarding the work to employees represented by the above Unions, not to those Unions or their members.

Scope of the Awards

Where the evidence indicates that a jurisdictional dispute is likely to recur, the Board will issue an award broad enough to encompass the geographical area in which an employer does business and the jurisdictions of the competing unions coincide.¹⁰ In Cases 13-CD-459, 13-CD-464, 13-CD-465, 13-CD-466, and 13-CD-467, pertaining to Fabcon and ATMI, the Employers, Bricklayers, Iron Workers, and Laborers stipulated that if an areawide award is not issued by the Board the disputes will continue and recur at various jobsites throughout the metropolitan Chicago area. The parties further stipulated that the award of the disputed work should include the entire territorial jurisdiction of Iron Workers. In Case 13-CD-468, Nationwide and Bricklayers request that the Board also issue an areawide award. Iron Workers opposes a broad award, contending that the situation may change from time to time. We conclude that an areawide award is warranted with respect to Nationwide as well as Fabcon and ATMI. The record demonstrates that 40 to 50 percent of Nationwide's jobs are within the geographical jurisdiction of Iron Workers. Maze testified that he intends to bid regularly on work within that area, noting that at the time of the hearing two or three such bids were pending. Moreover, at the time of the hearing, 90 percent of Nationwide's work on the LaSalle Street Station job remained to be performed. Maze further testified that between June 1991 and the hearing in July 1992 he was contacted on three occasions by representatives of Iron Workers concerning Nationwide's work in their jurisdiction. On one occasion prior to that giving rise to the present dispute, Iron Workers threatened to take job action if Nationwide did not include ironworkers in its crew. Based on the evidence in this record, we find that this dispute is likely to recur and that Iron Workers has demonstrated a proclivity to use proscribed means in order to obtain work similar to that in dispute here. Accordingly, the issuance of a broad award is appropriate in each of the cases before us here.

⁸See *Iron Workers Local 395 (Calumet Flexicore)*, 288 NLRB 25 (1988).

⁹See *Iron Workers Local 84 (Smith Southern Corp.)*, 212 NLRB 721 (1974). We also note that in the cases cited supra involving Fabcon and other Iron Workers locals, the Board awarded this work to bricklayers and laborers employed by Fabcon despite the existence of the 1954 and 1962 agreements.

¹⁰See, e.g., *Laborers Local 146 (Modern Acoustics)*, 267 NLRB 1123 (1983).

DETERMINATION OF DISPUTE

The National Labor Relations Board makes the following Determination of Dispute.

1. Employees of Fabcon, Incorporated, represented by International Union of Bricklayers and Allied Craftsmen, AFL-CIO, and by Laborers District Council of Chicago and Laborers' International Union of North America and Canada, AFL-CIO, are entitled to perform the unloading, hoisting, and installation of precast or prestressed wall slabs for Fabcon within the territorial jurisdiction of Bridge, Structural and Reinforcing Iron Workers Local No. 1 of the International Association of Bridge, Structural and Ornamental Iron Workers, AFL-CIO.

2. Employees of ATMI Precast, Inc., represented by International Union of Bricklayers and Allied Craftsmen, AFL-CIO, are entitled to perform the unloading, hoisting, and installation of precast or prestressed wall slabs for ATMI within the territorial jurisdiction of Bridge, Structural and Reinforcing Iron Workers Local No. 1 of the International Association of Bridge, Structural and Ornamental Iron Workers, AFL-CIO.

3. Employees of Nationwide Erectors, Inc., represented by International Union of Bricklayers and Al-

lied Craftsmen, AFL-CIO and by Laborers District Council of Chicago and Laborers' International Union of North America and Canada, AFL-CIO, are entitled to perform the unloading, hoisting, and installation of precast or prestressed wall slabs for Nationwide within the territorial jurisdiction of Bridge, Structural and Reinforcing Iron Workers Local No. 1 of the International Association of Bridge, Structural and Ornamental Iron Workers, AFL-CIO.

4. Bridge, Structural and Reinforcing Iron Workers Local No. 1 of the International Association of Bridge, Structural and Ornamental Iron Workers, AFL-CIO is not entitled by means proscribed by Section 8(b)(4)(D) of the Act to force the Employers here to assign the disputed work to employees represented by it.

5. Within 10 days from this date, Bridge, Structural and Reinforcing Iron Workers Local No. 1 of the International Association of Bridge, Structural and Ornamental Iron Workers, AFL-CIO shall notify the Regional Director for Region 13 in writing whether it will refrain from forcing the Employers, by means proscribed by Section 8(b)(4)(D), to assign the disputed work in a manner inconsistent with these determinations.